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**DIRECTIVE :** UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 34-80

**TO :** ALL STATE EMPLOYMENT SECURITY AGENCIES

**FROM :** OFFICE OF THE DEPUTY ASSISTANT SECRETARY

ROBERTS T. JONES  
Administrator  
Office of Management Assistance

**SUBJECT :** Determination of the Amount of Benefits Payable  
"Between Terms" When There are Both School and Non-School  
Wage Credits

1. Purpose. To provide instructions to SESAs to determine the amount of benefits payable between terms when there are both and non-school credits.
2. References. Sections 3304 (a)(6)(A)(i)(ii)(iii) and (iv) of the Social Security Act; P.L. 94-566; P.L. 95-19; P.L. 95-171; and Supplement No. 5, dated November 13, 1978.
3. Background. The above referenced laws require that (a) benefits shall not be payable based on services in an instructional, research or principal administrative capacity for an educational institution for the period between two successive academic years or certain other designated periods under specifically defined circumstances and that (b) benefits payable on the basis of service in any other capacity for an educational institution (other than an institution of higher education) may be denied for any period between two successive academic years or terms under defined circumstances. Compliance with these laws will require special handling of those claims involving both school and non-school wage credits.
4. Discussion. The denial provisions pertain only to benefits based on school service. If a claimant has sufficient non-school employment and earnings in the base period to qualify for benefits, these benefits would be payable during the between-terms denial period if the claimant were otherwise eligible. The denial applies not to compensation based on any covered employment but only to compensation for services performed as a school employee. Since compensation is based only on base period employment, the denial must apply only to the amount of benefits based on school service performed in the base period. An individual who has participated in the labor force in a capacity other than as a

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school employee cannot be denied benefit entitlement based on the non-school work simply because of also being a school employee.

An unemployed individual who worked as a teacher or school employee for an entire year and also had a second job for a non-school employer could receive reduced benefits during the summer based on the non-school employment (provided of course that there was reasonable assurance of similar employment in the next school year) since the denial would only apply to that portion of benefits based on school employment in the base period. The claimant could still be entitled to an amount of benefits based on the non-school employment. In determining benefit entitlement for a between-terms period, the agency should consider only wages in the non-school work.

Procedures. A State is responsible for identifying wages as earned in employment with an educational institution and for identifying wages earned in non-school employment.

A determination of the amount of benefits payable between terms when there are both school and non-school wage credits is accomplished through an adjusted monetary determination recomputing the individual's benefit rights based solely on the non-school employment and earnings in the claimant's base period. All of the monetary eligibility criteria under the State's law must be considered in the recomputation, including weeks of work and qualifying wage requirements. The result may be a valid claim, a reduced weekly benefit amount and maximum entitlement, no change in the weekly benefit amount or maximum entitlement, or an increased weekly benefit amount with reduced maximum entitlement, depending on the claimant's situation and the provisions of the State law.

Whatever the result of the recomputation, it is applicable only during the between-terms denial period. During the denial period, the new weekly benefit amount is the amount to be paid for a week of total unemployment (if the claimant is otherwise eligible), and no benefits may be paid in excess of the new maximum benefit entitlement. After the end of the denial period, the original weekly benefit amount based on both school and non-school wages applies. The original maximum potential benefit entitlement also applies (less the amount of benefits drawn).

At the initial claim point, a monetary determination must be made using all covered employment and wages. A notice of the monetary determination is given to the claimant. At the appropriate time during the benefit year, a non-monetary determination must be made regarding application of the between-terms denial provision. If the criteria for denial are met (claimant worked for a school and has reasonable assurance of work, etc.) a notice of the non-monetary determination is given to the claimant together with the recomputation of the individual's benefit rights applicable during the between-terms period.

Application of the between-terms denial requires that an adjusted monetary determination be prepared for any school worker affected by the denial provision to indicate the weekly benefit amount (WBA) and maximum benefit amount (MBA) appropriate during the denial period. In effect, there will be two sets of WBAs and MBAs - one to be applied during periods when there is no between-terms denial and one to be applied during between-terms denial periods. (if a school worker did not have sufficient non-school employment to meet the minimum eligibility requirements under the State law, the WBA and the MBA would both be zero during the between-terms denial period and, therefore, no benefits would be payable during the between-terms denial period).

When a claimant is subject to denial of all or part of his benefits pursuant to the between-terms denial provision, the claimant must be notified of the determination that the denial provision applies and of the effect of the denial, i.e., the amount of benefits, if any, he/she is entitled to during the denial period and the maximum benefit entitlement in effect during the denial period. The monetary determination, the non-monetary determination and the adjustment of benefit rights are separately appealable determinations and the claimant must be so notified.

The above instructions and procedures are also applicable to a determination of the amount of benefits payable during an established and customary vacation period or holiday recess under Section 3304 (a)(6)(A)(iii) of the Social Security Act when there are both school and non-school wage credits. The same considerations apply as well to service performed in an educational institution in the employ of an educational service agency as permitted in Section 3304(a)(6)(A)(iv).

6. Action Required. SESA administrators are requested to ensure that the procedures above are followed.

7. Inquiries. Questions should be directed to the appropriate regional office.